

AMENDED IN SENATE JUNE 16, 2008

AMENDED IN ASSEMBLY MARCH 10, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2448

Introduced by Assembly Member Feuer

February 21, 2008

An act to add Article 6 (commencing with Section 68630) to Chapter 2 of Title 8 of, and to repeal Section 68511.3 of, the Government Code, relating to the courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2448, as amended, Feuer. Courts: access to justice.

Existing law requires the Judicial Council to formulate and adopt uniform forms and rules of court for litigants proceeding in forma pauperis, providing, among other things, standard procedures for considering and determining applications for permission to proceed in forma pauperis, and that permission to proceed in forma pauperis be granted to eligible litigants.

This bill would, beginning July 1, 2009, revise and recast these provisions to provide, instead, that an initial fee waiver shall be granted by the court at any stage of the proceedings at both the appellate and trial court levels if an applicant meets specified standards of eligibility and application requirements. The bill would authorize the court to reconsider the initial fee waiver and to recover fees and costs that were waived under specified circumstances. Among other things, the bill would impose a lien in favor of the court against any settlement, compromise, award, or other recovery in excess of \$10,000 by a party in a civil case whose court fees and costs were initially waived in the

amount of those waived fees and costs. The bill would require the Judicial Council to adopt rules and forms to establish uniform procedures to implement these provisions, and would require applicants for an initial fee waiver to complete application forms under penalty of perjury. The bill also would require a party who petitions the court to enter a satisfaction of judgment to declare under penalty of perjury that any order requiring payment of waived fees and costs has been satisfied, and a party who petitions the court for dismissal in a case to declare under penalty of perjury that a lien in favor of the court against any settlement, compromise, award, or other recovery has been paid, as specified. By expanding the scope of the crime of perjury, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 68511.3 of the Government Code is
2 repealed.

3 SEC. 2. Article 6 (commencing with Section 68630) is added
4 to Chapter 2 of Title 8 of the Government Code, to read:

5
6 Article 6. Waiver of Court Fees and Costs
7

8 68630. The Legislature finds and declares all of the following:

9 (a) That our legal system cannot provide “equal justice under
10 law” unless all persons have access to the courts without regard
11 to their economic means. California law and court procedures
12 should ensure that court fees are not a barrier to court access for
13 those with insufficient economic means to pay those fees.

14 (b) That fiscal responsibility should be tempered with concern
15 for litigants’ rights to access the justice system. The procedure for
16 allowing the poor to use court services without paying ordinary
17 fees must be one that applies rules fairly to similarly situated
18 persons, is accessible to those with limited knowledge of court

1 processes, and does not delay access to court services. The
2 procedure for determining if a litigant may file a lawsuit without
3 paying a fee must not interfere with court access for those without
4 the financial means to do so.

5 (c) That those who are able to pay court fees should do so, and
6 that courts should be allowed to recover previously waived fees
7 if a litigant has obtained a judgment or substantial settlement.

8 68631. An initial fee waiver shall be granted by the court at
9 any stage of the proceedings at both the appellate and trial court
10 levels if an applicant meets the standards of eligibility and
11 application requirements under Sections 68632 and 68633. An
12 initial fee waiver excuses the applicant from paying fees for the
13 first pleading or other paper, and other court fees and costs as
14 specified in rules adopted by the Judicial Council, unless the court
15 orders the applicant to make partial payments under subdivision
16 (c) of Section 68632, subdivision (d) of Section 68636, or
17 subdivision (e) of Section 68637. Under circumstances set forth
18 in Section 68636, the court may reconsider the initial fee waiver
19 and order the fee waiver withdrawn for future fees and costs or
20 deny the fee waiver retroactively. At the end of the case, the court
21 may recover fees and costs that were initially waived under
22 circumstances set forth in Section 68637.

23 68632. Permission to proceed without paying court fees and
24 costs because of an applicant's financial condition shall be granted
25 initially to all of the following persons:

26 (a) A person who is receiving public benefits under one or more
27 of the following programs:

28 (1) Supplemental Security Income (SSI) and State
29 Supplementary Payment (SSP) (Article 5 (commencing with
30 Section 12200) of Chapter 3 of Part 3 of Division 9 of the Welfare
31 and Institutions Code).

32 (2) California Work Opportunity and Responsibility to Kids
33 Act (CalWORKs) (Chapter 2 (commencing with Section 11200)
34 of Part 3 of Division 9 of the Welfare and Institutions Code) or a
35 federal Tribal Temporary Assistance for Needy Families (Tribal
36 TANF) grant program (Section 10553.25 of the Welfare and
37 Institutions Code).

38 (3) Food Stamps (Chapter 51 (commencing with Section 2011)
39 of Title 7 of the United States Code) or the California Food
40 Assistance Program (Chapter 10.1 (commencing with Section

1 18930) of Part 6 of Division 9 of the Welfare and Institutions
2 Code).

3 (4) County Relief, General Relief (GR), or General Assistance
4 (GA) (Part 5 (commencing with Section 17000) of Division 9 of
5 the Welfare and Institutions Code).

6 (5) Cash Assistance Program for Aged, Blind, and Disabled
7 Legal Immigrants (CAPI) (Chapter 10.3 (commencing with Section
8 18937) of Part 6 of Division 9 of the Welfare and Institutions
9 Code).

10 (6) In-Home Supportive Services (IHSS) (Article 7
11 (commencing with Section 12300) of Chapter 3 of Part 3 of
12 Division 9 of the Welfare and Institutions Code).

13 (7) Medi-Cal (Chapter 7 (commencing with Section 14000) of
14 Part 3 of Division 9 of the Welfare and Institutions Code).

15 (b) A person whose monthly income is 125 percent or less of
16 the current poverty guidelines updated periodically in the Federal
17 Register by the United States Department of Health and Human
18 Services under the authority of paragraph (2) of Section 9902 of
19 Title 42 of the United States Code.

20 (c) A person who, as individually determined by the court,
21 cannot pay court fees without using moneys that normally would
22 pay for the common necessities of life for the applicant and the
23 applicant's family. Only if a trial court finds that an applicant under
24 this subdivision can pay a portion of court fees, or can pay court
25 fees over a period of time, or under some other equitable
26 arrangement, without using moneys that normally would pay for
27 the common necessities of life for the applicant and the applicant's
28 family, the court may grant a partial initial fee waiver using the
29 notice and hearing procedures set forth in paragraph (5) of
30 subdivision (e) of Section 68634. "Common necessities of life,"
31 as used in this article, shall be interpreted consistently with the use
32 of that term in paragraph (1) of subdivision (c) of Section 706.051
33 of the Code of Civil Procedure.

34 68633. (a) An applicant for an initial fee waiver under
35 subdivision (a) of Section 68632 shall complete, under penalty of
36 perjury, a Judicial Council application form requiring the applicant
37 to list his or her current street address, or another address where
38 the court can contact the applicant, occupation, employer, and the
39 type of public benefits that he or she is receiving. At the time the
40 application is submitted, the applicant shall not be required to

1 provide documents supporting receipt of public benefits, to provide
2 evidence of identity, to submit to interviews regarding the
3 applicant's financial circumstances, to be physically present to file
4 the application, or to fill out additional parts of the application
5 form.

6 (b) An applicant for an initial fee waiver under subdivision (b)
7 of Section 68632 shall complete, under penalty of perjury, both
8 of the following:

9 (1) A Judicial Council application form requiring the applicant
10 to provide his or her current street address, or another address
11 where the court can contact the applicant, occupation, and
12 employer.

13 (2) A financial statement showing monthly or yearly income as
14 determined under rules, and on forms, adopted by the Judicial
15 Council. At the time the application is submitted, the applicant
16 shall not be required to provide documents to prove income,
17 dependents, or expenses, to provide evidence of identity, to submit
18 to interviews regarding the applicant's financial circumstances, to
19 be physically present to file the application, or to fill out additional
20 parts of the application form.

21 (c) An applicant for an initial fee waiver under subdivision (c)
22 of Section 68632 shall complete, under penalty of perjury, both
23 of the following:

24 (1) A Judicial Council application form requiring the applicant
25 to provide his or her current street address, or another address
26 where the court can contact the applicant, occupation, and
27 employer.

28 (2) A financial statement showing monthly or yearly income
29 and expenses and a summary of assets and liabilities as determined
30 under rules, and on forms, adopted by the Judicial Council. At the
31 time the application is submitted, the applicant shall not be required
32 to provide documents to prove income, dependents, or expenses,
33 to provide evidence of identity, to submit to interviews regarding
34 the applicant's financial circumstances, or to be physically present
35 to file the application.

36 (d) The clerk shall provide forms adopted by the Judicial Council
37 pursuant to this article without charge to any person who requests
38 those forms or indicates that he or she is unable to pay any court
39 fees or costs. An applicant shall not be required to complete any

1 form as part of his or her application under this article other than
2 those forms adopted by the Judicial Council.

3 (e) An applicant for an initial fee waiver shall be informed that,
4 at a later date, the court may require proof of receipt of benefits
5 or financial information to verify eligibility, as provided in Section
6 68636, and that a trial court may seek reimbursement of initially
7 waived fees under circumstances set forth in Section 68637. This
8 notice requirement is satisfied if the information is provided on
9 the Judicial Council fee waiver application form.

10 (f) Financial information provided by an applicant shall be kept
11 confidential by the court. No person shall have access to the
12 application except the court, authorized court personnel, and any
13 person authorized by the applicant. No person shall reveal any
14 information contained in the application except as authorized by
15 law. Any hearing regarding whether to grant or deny a fee waiver
16 request shall be held in camera, and the court shall exclude all
17 persons except court staff, the applicant, those present with the
18 applicant's consent, and any witness being examined. The fact that
19 an applicant's fees and costs have been initially waived and the
20 amount of the waived fees and costs are not confidential. The
21 Judicial Council shall adopt procedures to keep the financial
22 information confidential and to consider a request seeking that
23 confidential information.

24 (g) Counsel representing an applicant who is filing in a general
25 jurisdiction civil case pursuant to an agreement that counsel will
26 advance litigation costs shall indicate that agreement on the
27 application form. The court shall set a hearing to determine whether
28 or not, ~~considering the resources of the counsel~~, the applicant is
29 able to pay court fees without using moneys that normally would
30 pay for the common necessities of life. This subdivision does not
31 apply if the applicant is represented by counsel for, or affiliated
32 with, a qualified legal services project, as defined in Section 6213
33 of the Business and Professions Code.

34 68634. (a) This section applies to the processing and
35 determination of fee waiver applications in the trial courts.

36 (b) All applications for an initial fee waiver shall be accepted
37 for filing. If an applicant submits an application without providing
38 all required information to complete the form, the clerk may request
39 that the applicant supply the omitted information, but shall not
40 refuse to file the application, or refuse to file any pleadings

1 accompanying the application, on the ground that the fee has not
2 been paid. The clerk shall not request that the applicant furnish
3 information that is not required on the Judicial Council fee waiver
4 application form. At the time the application is submitted, the clerk
5 shall not request that the applicant provide documents to support
6 the information other than those required under Section 68633.

7 (c) If a person has filed an application for an initial fee waiver,
8 the person shall be permitted to file his or her pleading or other
9 papers immediately, without paying any fees.

10 (d) The court may delegate to the clerk the authority to grant
11 applications for an initial fee waiver that meet the standards of
12 eligibility and application requirements set forth in Sections 68632
13 and 68633. The court shall not delegate to a clerk the authority to
14 deny or to partially grant an application for an initial fee waiver.

15 (e) The fee waiver application shall be determined without
16 regard to the substance of the applicant's pleading or other paper
17 filed, if any. On review of an application for an initial fee waiver
18 the court shall take the following actions, as applicable:

19 (1) Grant the application if the information provided on the
20 application establishes that the applicant meets the criteria for
21 eligibility and application requirements set forth in Sections 68632
22 and 68633.

23 (2) Deny the application if the application is incomplete. If the
24 application is denied on this basis, the applicant shall be given
25 notice of the specific reason for denial and a reasonable opportunity
26 to submit a revised application.

27 (3) Deny the application if the information provided on the
28 application conclusively establishes that the applicant is not eligible
29 for an initial fee waiver under Section 68632 on the grounds
30 requested. If the application is denied on this basis, the applicant
31 shall be given notice of the specific reason for denial and a
32 reasonable opportunity to request a hearing. The applicant may
33 submit additional information at the hearing.

34 (4) Set an eligibility hearing if the court has good reason to
35 doubt the veracity of the factual statements in the application. The
36 applicant shall be given 10 days' notice of the hearing and the
37 specific reason the court doubts the veracity of the factual
38 statements. The court may require that specified, reasonably
39 available, additional information be provided concerning the
40 truthfulness of the factual statements in the application, but shall

1 not require submission of information that is not related to the
2 criteria for eligibility and application requirements set forth in
3 Sections 68632 and 68633.

4 (5) Set an eligibility hearing if the information provided on the
5 application does not establish that the applicant meets the criteria
6 for eligibility and application requirements set forth in Sections
7 68632 and 68633, but that information does not conclusively
8 establish that the applicant is not eligible for an initial fee waiver
9 on the grounds requested. The applicant shall be given 10 days'
10 notice of the hearing and the specific reason why the court has not
11 granted the application. The court may require that specified,
12 reasonably available, additional information be provided, but shall
13 not require submission of information that is not related to the
14 criteria for eligibility and application requirements set forth in
15 Sections 68632 and 68633.

16 After notice and an opportunity to be heard, the court may require
17 an applicant under subdivision (c) of Section 68632 to pay a portion
18 of court fees, or to pay court fees over a period of time or under
19 some other equitable arrangement that meets the criteria of
20 subdivision (c) of Section 68632. The court shall give a written
21 statement of reasons if an application is denied in whole or in part.

22 (f) An application for an initial fee waiver is deemed granted
23 five court days after it is filed, unless before that time, the court
24 gives notice of action on the application as provided in subdivision
25 (e). Any delay by the court in processing an application to initially
26 waive court fees and costs does not count against any time limits
27 affecting the pleadings or other papers that the applicant timely
28 filed.

29 (g) If an application is denied in whole or in part, the applicant
30 shall pay the court fees and costs that ordinarily would be charged,
31 or make the partial payment as ordered by the court, within 10
32 days after the clerk gives notice of the denial, unless within that
33 time the applicant submits a new application or requests a hearing
34 under subdivision (e). If the applicant does not pay on time, the
35 clerk shall void the papers that were filed without payment of the
36 court fees and costs.

37 (h) A person who applies for an initial fee waiver shall indicate
38 whether he or she has filed a prior application for an initial fee
39 waiver in the same case within the previous six months and shall
40 attach a copy, if one is reasonably available.

1 68634.5. (a) This section applies to the processing and
2 determination of fee waiver applications in the appellate courts.

3 (b) All completed applications for a fee waiver shall be accepted
4 for filing. If an application is submitted without all required
5 information filled out on the form, the clerk may return the
6 application to the applicant and request that the applicant supply
7 the omitted information, but shall not refuse to file any paper
8 accompanying the application on the ground that the application
9 is incomplete or the fee has not been paid. The clerk shall not
10 request that the applicant furnish information that is not required
11 on the Judicial Council fee waiver application form. At the time
12 the application is submitted, the clerk shall not request that the
13 applicant provide documents to support the information other than
14 those required under Section 68633.

15 (c) A person shall be permitted to file his or her papers
16 immediately, even if the person does not present the filing fee, or
17 an application for, or order granting, a fee waiver.

18 (d) The court may delegate to the clerk the authority to grant
19 applications for a fee waiver that meet the standards of eligibility
20 and application requirements set forth in Sections 68632 and 68633.
21 The court shall not delegate to a clerk the authority to deny an
22 application for a fee waiver.

23 (e) The fee waiver application shall be determined without
24 regard to the substance of any other paper filed by the applicant.
25 On review of an application for a fee waiver, the court shall take
26 the following actions, as applicable:

27 (1) Grant the application if the information provided on the
28 application establishes that the applicant meets the criteria for
29 eligibility and application requirements set forth in Sections 68632
30 and 68633.

31 (2) Deny the application if the application is incomplete. If the
32 application is denied on this basis, the applicant shall be given
33 notice of the specific reason for denial and a reasonable opportunity
34 to submit a revised application.

35 (3) Deny the application if the information provided on the
36 application conclusively establishes that the applicant is not eligible
37 for a fee waiver under Section 68632 on the grounds requested. If
38 the application is denied on this basis, the applicant shall be given
39 notice of the specific reason for denial and a reasonable opportunity

1 to submit additional information related to the criteria for eligibility
2 and application requirements.

3 (4) If the court concludes that there is a substantial evidentiary
4 question regarding the applicant's eligibility, the court:

5 (A) May require the applicant to provide specified, reasonably
6 available, additional information concerning the factual statements
7 in the application, but shall not require submission of information
8 that is not related to the criteria for eligibility and application
9 requirements set forth in Sections 68632 and 68633.

10 (B) May set a hearing to consider evidence concerning the
11 applicant's eligibility.

12 (C) Shall give a written statement of reasons if an application
13 is denied.

14 (f) An application for a fee waiver is deemed granted five court
15 days after it is filed, unless before that time, the court gives notice
16 of action on the application as provided in subdivision (e).

17 (g) If an application is denied, the applicant shall pay the court
18 fees and costs that ordinarily would be charged within 10 days
19 after the clerk gives notice of the denial, unless within that time,
20 the court grants a fee waiver based on a new application or
21 additional information provided by the applicant under subdivision
22 (e). The clerk shall notify the applicant of the consequences for
23 failure to pay the court fees.

24 (h) A person who applies for an initial fee waiver shall indicate
25 whether he or she has filed a prior application for a fee waiver in
26 the same case and shall attach a copy, if one is reasonably available.

27 68635. (a) This section applies only to waivers of trial court
28 fees.

29 (b) Notwithstanding any other provision of this article, a person
30 who is sentenced to the state prison or confined in a county jail
31 shall pay the full amount of the trial court filing fees and costs to
32 the extent provided in this section.

33 (c) To apply for an initial fee waiver, a person who is sentenced
34 to the state prison or confined in a county jail shall complete, under
35 penalty of perjury, a Judicial Council application form giving the
36 current address of the inmate and a statement that he or she is
37 incarcerated, together with a statement of account for any moneys
38 due to the inmate for the six-month period immediately preceding
39 the application. The form shall be certified by the appropriate

1 official of the Department of Corrections and Rehabilitation or a
2 county jail.

3 (d) When the pleadings or other papers are filed, the court shall
4 assess and, if funds exist, collect as partial payment, a partial filing
5 fee of 20 percent of the greater of either of the following:

6 (1) The average monthly deposits to the inmate's account.

7 (2) The average monthly balance in the inmate's account for
8 the six-month period immediately preceding the application.

9 (e) After the initial filing fee is partially paid, the inmate shall
10 make monthly payments of 20 percent of the preceding month's
11 income credited to the inmate's account. The Department of
12 Corrections and Rehabilitation, or a county jail, shall forward
13 payments from this account to the clerk of the court each time the
14 amount in the account exceeds ten dollars (\$10) until the filing
15 fees are paid in full.

16 (f) The fees collected by the court under this section shall not
17 exceed the amount of the fees that would be charged to a person
18 who is not incarcerated.

19 (g) The court may delegate to a clerk the authority to process
20 requests for fee waivers from inmates under this section.

21 (h) An inmate shall not be prohibited from filing pleadings or
22 other papers solely because the inmate has no assets and no means
23 to partially pay the initial filing fee.

24 68636. (a) After the court has granted an initial fee waiver in
25 whole or in part, and before final disposition of the case, the person
26 who received the initial fee waiver shall notify the court within
27 five days of any change in financial circumstances that affects his
28 or her ability to pay all or a portion of the court fees and costs that
29 were initially waived.

30 (b) If, before or at the time of final disposition of the case, the
31 court obtains information, including information derived from the
32 court file, suggesting that a person whose fees and costs were
33 initially waived is not entitled to a fee waiver, or that the person's
34 financial condition has changed so that he or she is no longer
35 eligible for a fee waiver, the court may require the person to appear
36 at a court hearing by giving the applicant no less than 10 days'
37 written notice of the hearing and the specific reasons why the initial
38 fee waiver might be reconsidered. The court may require the person
39 to provide reasonably available evidence, including financial
40 information, to support his or her eligibility for the fee waiver, but

1 shall not require submission of information that is not related to
2 the criteria for eligibility and application requirements set forth in
3 Sections 68632 and 68633. The court shall not conduct a hearing
4 pursuant to this subdivision more often than once every six months.

5 (c) At the time of final disposition of the case, the court may
6 give notice that a person whose fees and costs were initially waived
7 is required to appear at a court hearing by giving the applicant no
8 less than 10 days' written notice of the hearing. The court may
9 require the person to provide reasonably available evidence,
10 including financial information, to support his or her eligibility
11 for the fee waiver, but shall not require submission of information
12 that is not related to the criteria for eligibility and application
13 requirements set forth in Sections 68632 and 68633.

14 (d) In conducting a hearing under subdivision (b) or (c), if the
15 court determines that the person was not entitled to the initial fee
16 waiver at the time it was granted, the court may order the waiver
17 withdrawn retroactively. The court may order the person to pay
18 to the court immediately, or over a period of time, all or part of
19 the fees that were initially waived. The court shall give the person
20 a minimum of 10 court days to begin paying the full or partial fees.

21 (e) In conducting a hearing under subdivision (a), (b), or (c), if
22 the court determines that the person's financial circumstances have
23 changed since the grant of the initial fee waiver or partial initial
24 fee waiver, the court may order the fee waiver withdrawn
25 prospectively from the time that the person no longer was eligible
26 for a fee waiver. The court may order the person to pay to the court
27 immediately, or over a period of time, all or part of the fees that
28 were waived since the time that the person no longer was eligible
29 for a fee waiver. The court may order the person to begin paying
30 all or part of the court fees assessed for future activities in the case.
31 The court shall give the person a minimum of 10 court days to
32 begin paying the full or partial fees.

33 (f) If the court obtains information suggesting that a litigant
34 whose fees and costs were initially waived is obtaining court
35 services in bad faith, or for an improper purpose such as to harass
36 or cause unnecessary delay, or to needlessly increase the costs of
37 litigation, the court may give notice that the litigant is required to
38 appear at a court hearing to consider whether limitations should
39 be placed on court services for which fees were initially waived.

1 68637. (a) This section applies only to waivers of trial court
2 fees.

3 (b) (1) If a party whose trial court fees and costs were initially
4 waived is a prevailing party within the meaning of Section 1032
5 of the Code of Civil Procedure, the judgment or dismissal entered
6 in favor of the party whose fees and costs were initially waived
7 shall include an order requiring that the party against whom
8 judgment or dismissal has been entered pay to the court the waived
9 fees and costs. The court may refuse to enter a partial or full
10 satisfaction of a judgment until an accompanying order requiring
11 payment of waived fees and costs has been satisfied.

12 (2) A party petitioning the court to enter satisfaction of judgment
13 shall declare, under penalty of perjury, that any order requiring
14 payment of waived fees and costs has been satisfied.

15 (3) This subdivision does not apply to any of the following:

16 (A) Unlawful detainer cases.

17 (B) Family law matters, for which recovery of fees is subject
18 to subdivisions (d) and (e).

19 (C) Cases in which the judgment or dismissal is entered against
20 a party whose fees and costs were initially waived.

21 (c) If a party in a civil case whose trial court fees and costs were
22 initially waived recovers ten thousand dollars (\$10,000) or more
23 in value by way of settlement, compromise, arbitration award,
24 mediation settlement, or other recovery, the waived fees and costs
25 shall be paid to the court out of the settlement, compromise, award,
26 or other recovery.

27 (1) The court shall have a lien on any settlement, compromise,
28 award, or other recovery in the amount of all the court fees and
29 costs initially waived.

30 (2) The waived fees and costs shall first be paid to the court
31 before the party whose fees and costs were initially waived receives
32 anything of value under the settlement, compromise, award, or
33 other recovery.

34 (3) Notice of the lien shall be given to the parties under rules
35 and on forms adopted by the Judicial Council, and the Judicial
36 Council shall provide by rule the procedures by which a party
37 subject to a lien may determine the amount of the lien.

38 (4) The court may refuse to enter a petition for dismissal in the
39 case until the lien is satisfied. A party filing a petition for dismissal
40 shall declare, under penalty of perjury, that the lien has been paid,

1 or that any settlement, compromise, award, or other recovery has
2 a value of less than ten thousand dollars (\$10,000).

3 (5) In a case in which an initial waiver of fees and costs was
4 granted, or if a petition to dismiss the case is filed without the
5 declaration, the court may issue an order to show cause why the
6 lien should not be enforced and why the court should not enter a
7 judgment making the parties jointly and severally liable to the
8 court for initially waived fees and costs.

9 (d) If a judgment or an order to pay support is entered in a family
10 law case, the trial court shall consider, based on the information
11 in the court file, whether a party who did not receive a fee waiver
12 has the ability to pay all or part of the other party's waived fees.
13 Any order for the payment of the other party's waived fees shall
14 be made payable only after all current support and all accrued
15 arrears owed by the party who did not receive the fee waiver have
16 been paid. If the court orders payment of the other party's waived
17 fees, and the party required to pay is not present in court at the
18 time judgment is entered, the party required to pay shall be given
19 notice and an opportunity for a hearing to request that the court
20 set aside the order to pay fees. A request for a hearing shall be
21 made in writing within 30 days after service of the notice of the
22 court order. If a request for hearing is made, the order for payment
23 of initially waived fees shall not be enforced until after the hearing.

24 (e) If a judgment is entered in a family law case, the trial court
25 shall consider, based on the information in the court file, whether
26 a party's circumstances have changed so that it is reasonable to
27 require a party who received an initial fee waiver to pay all or part
28 of the fees that were initially waived. In making this determination,
29 the court shall use the criteria for eligibility set forth in Section
30 68632. In considering whether a child or spousal support order
31 constitutes a change of circumstances allowing the party to pay
32 fees, the court also shall consider the likelihood that the support
33 obligor will remit the payments ordered by the court. If a support
34 order is the primary basis for the court's finding of changed
35 circumstances, the court shall order the support obligor to pay the
36 previously waived fees subject to the provisions of subdivision
37 (d). When the court orders the party to pay all or part of the fees
38 that were initially waived, the party required to pay shall be given
39 notice and an opportunity for a hearing to request that the court
40 set aside the order to pay fees. A request for a hearing shall be

1 made in writing within 30 days after service of the notice of the
2 court order. If a request for hearing is made, the order for payment
3 of initially waived fees shall not be enforced until after the hearing.

4 68638. (a) The trial court may execute on any order for
5 payment of initially waived fees and costs in the same manner as
6 on a judgment in a civil action. The court may issue an abstract of
7 judgment, a writ of execution, or both, for all of the following:

8 (1) Recovery of the initially waived fees and costs as ordered.

9 (2) Fees for issuing the abstract of judgment, writ of execution,
10 or both.

11 (3) A twenty-five dollar (\$25) fee for administering this
12 subdivision.

13 (4) An amount due to levying officers for serving and collecting
14 on the judgment that will all be added to the writ of execution.

15 (b) Upon collection, the initially waived fees and costs, the fees
16 for issuing the abstract of judgment and writ of execution, and the
17 twenty-five dollar (\$25) administrative fee shall be remitted to the
18 court. Thereafter, the amount due to the levying officers for serving
19 and collecting on the judgment shall be paid.

20 68639. An initial fee waiver shall expire 60 days after the
21 judgment, dismissal, or other final disposition of the case.

22 68640. The Judicial Council may adopt a rule of court to allow
23 litigants who are not eligible for a fee waiver to pay court fees in
24 installments.

25 68641. The Judicial Council shall adopt rules and forms to
26 establish uniform procedures to implement this article, including,
27 but not limited to, procedures for all of the following:

28 (a) Considering and determining applications to proceed without
29 paying court fees and costs at every stage of the proceedings,
30 including at the trial and appellate levels of the court.

31 (b) Prescribing the court fees and costs that may be waived at
32 every stage of the proceedings.

33 (c) Giving notice of lien and hearings for reconsideration and
34 recovery of initially waived fees and costs.

35 (d) Collecting waived fees and costs.

36 (e) Requesting a hearing when an application is denied.

37 (f) Any other procedures necessary to implement the provisions
38 of this article.

39 SEC. 3. This act shall become operative on July 1, 2009.

1 SEC. 4. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

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